IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION CRIMINAL DOCKET NO.: 5:06CR35

UNITED STATES OF AMERICA)	
v.)	ORDER
)	<u> </u>
JACKIE CLARK,)	
Defendant.)	
)	

THIS MATTER is before the Court on Defendant's <u>pro se</u> letter motion dated October 5, 2007, filed and docketed the same day as a Motion For New Trial. (Document #340)

As an initial matter, the Court construes Defendant's letter as a Motion For Appointment Of New Counsel. In addition to the other types of relief mentioned within Defendant's correspondence, Defendant states that his "lawyer seems to have sold [him] out"; that "no one can get past [counsel's] voicemail"; "too much evidence was left out on [his] attorney's part"; that defense counsel failed to interview and call potential witnesses; that defense counsel failed to introduce or rely on certain items of potentially exculpatory evidence; and that counsel "redefined the word inadequit[sic]." (Letter Motion at 1-2.)

Furthermore, to the extent Defendant requests a new trial, the Court will defer ruling until newly appointed counsel has an opportunity to review the trial record and determine whether a legal basis exists to justify the <u>pro se</u> motion. Should newly appointed counsel elect not to pursue the post-trial motion, counsel should move for withdrawal of said letter motion within sixty (60) days of appointment.

IT IS, THEREFORE, ORDERED that Defendant's Motion For New Counsel is hereby

GRANTED. Accordingly, the Federal Defenders' Office is directed to appoint new counsel.

IT IS FURTHER ORDERED that ruling on Defendant's Motion For New Trial is **DEFERRED**. Within sixty (60) days of appointment, counsel shall notify the Court as to the status of this matter 1) with respect to Defendant's <u>pro se</u> letter motion (*i.e.*, by either moving to withdraw said motion, or by fully briefing any legitimate legal issues); and 2) with respect to readiness for sentencing.

Signed: April 14, 2008

Richard L. Voorhees United States District Judge